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NOTICE OF ALLOWANCE AND FEE(S) DUE

25224	7590	02/03/2009

MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

EXAMINER
ZHOU, TING

ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 02/03/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,631	11/12/2003	Hideo Suzuki	393032019712	2132

TITLE OF INVENTION: METHOD AND APPARATUS FOR EDITING PERFORMANCE DATA WITH MODIFICATION OF ICONS OF MUSICAL SYMBOLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	05/04/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: <u>Mail</u> **Mail Stop ISSUE FEE**
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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

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25224        7590        02/03/2009
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MORRISON & FOERSTER, LLP
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Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

	(Depositor's name)
	(Signature)
	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,631	11/12/2003	Hideo Suzuki	393032019712	2132

TITLE OF INVENTION: METHOD AND APPARATUS FOR EDITING PERFORMANCE DATA WITH MODIFICATION OF ICONS OF MUSICAL SYMBOLS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1510	$300	$0	$1810	05/04/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
ZHOU, TING	2173	715-716000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).	2. For printing on the patent front page, list
☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**	(1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____ (2) the name of a single firm (having as a member a registered patent attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____ 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:	4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
☐ Issue Fee	☐ A check is enclosed.
☐ Publication Fee (No small entity discount permitted)	☐ Payment by credit card. Form PTO-2038 is attached.
☐ Advance Order - # of Copies _____	☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.   ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.   OMB 0651-0033   U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,631	11/12/2003	Hideo Suzuki	393032019712	2132

25224 7590 02/03/2009	**EXAMINER**
MORRISON & FOERSTER, LLP	ZHOU, TING
555 WEST FIFTH STREET	
SUITE 3500	ART UNIT / PAPER NUMBER
LOS ANGELES, CA 90013-1024	2173

DATE MAILED: 02/03/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 769 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 769 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

	Application No.	Applicant(s)
Notice of Allowability	10/712,631	SUZUKI ET AL.
	Examiner	Art Unit	
	TING ZHOU	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *11/21/08*.

2. ☒ The allowed claim(s) is/are *8,17,23 and 26-29*.

3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☒ All   b) ☐ Some*   c) ☐ None   of the:

        1. ☒ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

    * Certified copies not received: _____ .

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.

    (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached

        1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.

    (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)

2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3. ☒ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date *10/10/08*

4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application

6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .

7. ☒ Examiner's Amendment/Comment

8. ☒ Examiner's Statement of Reasons for Allowance

9. ☐ Other _____.

DETAILED ACTION

1.   The amendment filed on 21 November 2008 have been received and entered. Claims 8,

17, 23 and 26-29 as amended are pending in the application.

EXAMINER'S AMENDMENT

2.   An examiner's amendment to the record appears below. Should the changes and/or

additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR

1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the

payment of the issue fee.

        Authorization for this examiner's amendment was given in a telephone interview with

Mr. David T. Yang (Reg. No. 44,415) on 01/29/2009.

3.   The application is amended as follows:

        a.   The claims are amended as follows:

                i.   Claim 8 is amended as follow:

                        • Replace the word "if" on lines 11 and 13 of claim 8 with the word "when"

                        so that the claim reads:

Claim 8.   A performance data editing method for a computer system containing a display,

comprising the steps of:

controlling the computer system to display at least one layer in a window on a screen of the display;

attaching an execution icon corresponding to execution-related data onto the layer, wherein the execution-related data constructs a part of performance data;

allowing the execution icon of the layer to move in response to an operation of a user of the computer system;

detecting an event in which the execution icon is moved; and

upon detection of the even, when the execution icon is moved outside of the window, then deleting the execution-related data corresponding to the execution icon from the performance data and, when the execution icon is moved close to an end of the window, then controlling the computer to scroll the display of a portion of the window without deleting the execution-related data corresponding to the execution icon,

wherein said attached execution icon represents execution-related data for adding a predetermined type of articulation to a musical tone to be generated based on the performance data, said predetermined type of articulation causes the musical tone to be generated in accordance with a specific technique, and

wherein said step of attaching the execution icon causes the corresponding execution-related data to be incorporated into the performance data being edited.

   ii.   Claim 17 is amended as follow:

   - Replace the word "a" on line 9 with the word "an".

- Replace the word "if" on lines 9 and 11 of claim 17 with the word "when" so that the claim reads:

Claim 17.   A performance data editing apparatus containing a display comprising:

a controller for displaying at least one layer in a window on a screen of the display;

an operator being operated by a user for attaching an execution icon corresponding to execution-related data onto the layer and for moving the execution icon of the layer, wherein the execution-related data constructs a part of performance data;

a detector for detecting an event in which the execution icon is moved; and

an executor for upon detection of the event, when the execution icon is moved outside of the window, then deleting the execution-related data corresponding to the execution icon from the performance data, and when the execution icon is moved close to an end of the window, then controlling the computer to scroll the display of a portion of the window without deleting the execution-related data corresponding to the execution icon,

wherein said attached execution icon represents execution-related data for adding a predetermined type of articulation to a musical tone to be generated based on the performance data, said predetermined type of articulation causes the musical tone to be generated in accordance with a specific performance technique, and

wherein the attachment of the execution icon causes the corresponding execution-related data to be incorporated into the performance data being edited.

    iii.   Claim 23 is amended as follow:

- Insert the word "storage" between the words "readable" and "medium" on line 1 of claim 23.

- Insert the words "in a window" between the words "layer" and "on" on line 4 of claim 23.

- Replace the word "if" on lines 11 and 13 of claim 23 with the word "when" so that the claim reads:

Claim 23.   A computer-readable storage medium encoded with a computer program for causing a computer system having a display to perform a performance data editing method comprising the steps of:

controlling the computer system to display at least one layer in a window on a screen of the display;

attaching an execution icon corresponding to execution-related data onto the layer, wherein the execution-related data constructs a part of performance data;

allowing the execution icon of the layer to move in response to an operation of a user of the computer system;

detecting an event in which the execution icon is moved outside of a prescribed display area; and

upon detection of the event, when the execution icon is moved outside of the window, then deleting the execution-related data corresponding to the execution icon from the performance data, and when the execution icon is moved close to an end of said window, then

controlling the computer to scroll the display of a portion of the window without deleting the

execution-related data corresponding to the execution icon,

wherein said attached execution icon represents execution-related data for adding a

predetermined type of articulation to a musical tone to be generated based on the performance

data, said predetermined type of articulation causes the musical tone to be generated in

accordance with a specific performance technique, and

wherein said step of attaching the execution icon causes the corresponding execution-

related data to be incorporated into the performance data being edited.

Allowable Subject Matter

4.   Claims are 8, 17, 23 and 26-29 are allowed.

5.   The following is an examiner's statement of reasons for allowance: The present invention

teaches an editor for editing performance data via manipulation of execution icons. Each of the

independent claims, as amended, identifies the distinct feature of upon detection of the

movement of the execution icon, when the execution icon is moved outside of the window, then

deleting the execution-related data corresponding to the execution icon from the performance

data and, when the execution icon is moved close to an end of the window, then controlling the

computer to scroll the display of a portion of the window without deleting the execution-related

data corresponding to the execution icon. The closest prior art, "Emagic Notator Logic

Sequencing Software (Macintosh)" by Jim Aikin (hereinafter "Aikin"), Blumenau U.S. Patent

5,664,216 and Mandt U.S. Patent 6,621,532 teach a performance editor that allows users to

manipulate icons. In the case of the Aikin reference, Aikin teaches controlling the computer

system to display at least one layer on a screen of the display (sequencing software with several

layers) (Aikin: pages 12—124, 127-128 and Figures 2-3); attaching an execution icon

corresponding to execution-related data onto the layer, wherein the execution-related data

constructs a part of performance data (icons corresponding to the musical performance can be

attached to each layer) (Aikin: pages 12—124, 127-128 and Figures 2-3), wherein the attached

execution icon represents execution-related data for adding a predetermined type of articulation

to a musical tone to be generated based on performance data, and wherein the step of attaching

the execution icon causes the corresponding execution-related data to be incorporated into the

performance data being edited (Aikin: pages 12—124, 127-128 and Figures 2-3). In these cited

sections, Aikin describes how a user selects execution icons corresponding to execution-related

data representing articulation used in music performance, i.e. pipe organ icon representing how

the pipe organ, a musical instrument, performs from a palette of icons and places them on a

layer, causing the corresponding data to be incorporated into the performance data being edited.

For example, a user may select a pipes organ icon, which corresponds to how the performance is

to be executed, and is therefore an execution icon. The musical notes are also execution icons

pertaining to how music is to be played/executed. Aikin further teaches allowing the execution

icon of the layer to move in response to an operation of a user of the computer system (notes and

tools can be moved around on the sequences and tracks) (Aikin: page 123-124). In the case of

the Blumenau reference, Blumenau teaches adding a predetermined type of articulation to a

musical tone to be generated, the predetermined type of articulation causes the musical tone to be

generated in accordance with a specific performance technique (icons are placed on the screen to

transform a musical tone, i.e. audio data; for example, icons can represent filter icons that affect audio performance techniques/process, i.e. the technique of bending audio data) (Blumenau: column 2, lines 22-57, column 5, lines 18-20 and column 8, lines 8-35). In the case of the Mandt reference, Mandt teaches detecting an event in which the execution icon is moved outside of a prescribed display area (dragging an icon from the toolbar out of the toolbar area) (Mandt: column 8, lines 8-17), and upon detection of the event, deleting the execution icon (when the icon from the toolbar is moved out the toolbar area, the icon is removed) (Mandt: column 8, lines 8-17). However, the prior art fails to teach upon detection of the movement of the execution icon, when the execution icon is moved outside of the window, then deleting the execution-related data corresponding to the execution icon from the performance data and, when the execution icon is moved close to an end of the window, then controlling the computer to scroll the display of a portion of the window without deleting the execution-related data corresponding to the execution icon (also see applicant's arguments filed on 11/21/2008). Thus, the prior art fails to anticipate or render the above limitations obvious.

6.   Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TING ZHOU whose telephone number is (571)272-4058. The examiner can normally be reached on Monday - Friday 8:00am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kieu Vu can be reached on (571) 272-4057. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ting Zhou/
Primary Examiner, Art Unit 2173